IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Bail Cancellation Application No. 427 of 2005

Subhash Singh S/o Late Ameer Singh
R/o Mohalla Shekhupura P.S. Kankhal
District Haridwar. ……Applicant

Versus

1. State of Uttaranchal
2. Dinesh Kumar Mehta
   S/o Anant Ram Mehta
   R/o Mohalla Mehtan, Jwalapur
   P.S. Jwalapur, District Haridwar. …Respondents.

Shri Siddharth Sah, learned counsel for the applicant.
Shri Sanjeev Singh, learned counsel for respondent No. 2.

Hon'ble Prafulla C. Pant, J.

Heard.

2. This is application for cancellation of bail, granted by learned Sessions Judge, Hardwar on 12.02.2004 in crime No. 101 of 2003 under Section 420, 467, 468, 471, 120B of I.P.C., P.S. Kankhal, District Hardwar, to the accused/ respondent No. 2.

3. Learned counsel for the applicant/ complainant, argued that the bail order has been obtained by the accused by misleading the court. After going through the order dated 12.02.2004, which is a detailed and reasoned order, and the order dated 23.04.2005, passed by the same court, rejecting the application for cancellation of bail and perusing the record, this Court is of the opinion that no case for cancellation of bail, appears to have been made out. The bail cannot be cancelled only for the reason that the trial court could

have rejected the bail. For cancellation of bail, there must be special circumstances like tampering with evidence, pressurising or intimidating the witnesses or that the bail order has been obtained fraudulently. In the present case, it does not appear if any such circumstance exists for cancellation of bail. As to the contention that the trial court was misled, from the perusal of the record, it is clear that the trial court passed the bail order after hearing both the sides and considering all facts before it. While refusing to cancel the bail on 23.04.2005, the trial court has mentioned the circumstances in which the bail was granted and it felt that it was not mislead, as alleged in the application for cancellation of bail.

4. In the above circumstances, this Court does not find any sufficient reason, in the present case to cancel the bail granted to respondent No. 2 on 12.02.2004 by Sessions Judge, Hardwar. Therefore, with the observation that if the new circumstance so warrant the State, may move for cancellation of bail the present application for cancellation of bail is rejected.

(Prafulla C. Pant, J.)

Dt. 06.09.2006
S